



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2017-0256; FRL-9975-46-Region 5]

**Air Plan Approval; Ohio; Redesignation of the Delta, Ohio Area
to Attainment of the 2008 Lead Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of Ohio's request to redesignate the portion of Fulton County, Ohio known as the Delta nonattainment area (Delta area) to attainment of the 2008 National Ambient Air Quality Standards (NAAQS or standard) for lead. EPA is also approving, as meeting Clean Air Act (CAA) requirements, the maintenance plan and related elements of the redesignation, reasonably available control measure (RACM)/ reasonably available control technology (RACT) measures and a comprehensive emissions inventory. EPA is taking these actions in accordance with the CAA and EPA's implementation regulations regarding the 2008 lead NAAQS.

DATES: This final rule is effective on **[insert date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2017-0256. All documents in the docket are listed on the www.regulations.gov web site. Although

listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Matt Rau, Environmental Engineer at (312) 886-6524 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, rau.matthew@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the Background?
- II. What are EPA's Responses to the Comments?
- III. What Action is EPA Taking?

IV. Statutory and Executive Order Reviews

V. Judicial Review

I. What is the Background?

On November 12, 2008 (73 FR 66964), EPA established the 2008 primary and secondary lead NAAQS at 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) based on a maximum arithmetic three-month mean concentration for a three-year period. 40 CFR 50.16.

On November 22, 2010 (75 FR 71033), EPA published its initial air quality designations and classifications for the 2008 lead NAAQS based upon air quality monitoring data for calendar years 2007-2009. These designations became effective on December 31, 2010. The Delta area portion of Fulton County was designated as nonattainment for lead, specifically portions of Swan Creek and York Townships. 40 CFR 81.336. On May 26, 2015 (80 FR 29964), EPA issued a Clean Data Determination, which determined that the Delta area attained the 2008 lead NAAQS prior to its attainment date of December 31, 2015.

On April 27, 2017, Ohio requested EPA to redesignate the Delta area to attainment of the 2008 lead NAAQS and provided documentation in support of its request. On October 18, 2017 (82 FR 48442), EPA issued a direct final rule approving Ohio's request to redesignate the Delta area to attainment. However, since EPA received relevant adverse comments on this action

within the prescribed period, EPA withdrew the direct final rule. EPA had also proposed to approve the request to redesignate the Delta area to attainment of the 2008 lead NAAQS on October 18, 2017 (82 FR 48474). This action is a final rule based on the October 18, 2017 proposal.

The requirements for redesignating an area from nonattainment to attainment are found in CAA section 107 (d) (3) (E). There are five criteria for redesignating an area. First, the Administrator must determine that the area has attained the applicable NAAQS based on current air quality data. Second, the Administrator must have fully approved the applicable SIP for the area under CAA section 110(k). The third criterion is for the Administrator to determine that the air quality improvement is the result of permanent and enforceable emission reductions. Fourth, the Administrator must have fully approved a maintenance plan meeting the CAA section 175A requirements. The fifth criterion is that the state has met all of the applicable requirements of CAA section 110 and part D.

The direct final rule published on October 18, 2017 (82 FR 48442) details how the Delta area has met the requirements for redesignation under section 107(d) (3) (E) of the CAA. In summary, EPA's approval of the RACM/RACT measures satisfies section 172 (c) (1) of the CAA. EPA is approving Ohio's 2013 emissions inventories for the Delta area as meeting the

requirement of section 172(c)(3) of the CAA. EPA finds that the other requirements of CAA section 172(c) are not applicable because the Delta area has monitored attainment of the 2008 lead NAAQS. Further, EPA is approving Ohio's maintenance plan as it adequately addresses the requirements of section 175A of the CAA.

II. What are EPA's Responses to the Comments?

EPA received an anonymous comment on November 16, 2017. The comment is discussed below along with a response from EPA. *Comment:* The commenter stated, "In 2009 the areas [sic] design value for lead was 0.18 and dropped significantly to 0.09 in 2012, but in 2014 the design value increased significantly back up to 0.12. This shows that the area hasn't maintained a consistent level that shows attainment below 0.15." The commenter further stated that, "EPA shouldn't approve the re-designation request until the Fulton area shows better improvement in the monitored lead design values. EPA should wait until the lead levels become steady without increasing." The commenter further states, "EPA needs to take lead violations seriously."

Response: EPA disagrees with the commenter that the variability in the area's design value prohibits a redesignation to attainment. The statute does not require an area's design value to "maintain a consistent level" at its lowest recorded value or

"become steady without increasing," but rather requires that the air quality in the area is attaining the standard. In this case, though there was a fluctuation in the area's design values. Those values have remained below the level of the 2008 NAAQS for the relevant period, and, contrary to commenter's suggestion, has not violated the standard. Since the Bunting Bearing Company's Delta, Ohio facility (Bunting), identified by Ohio as the only point source of lead emissions in the nonattainment area, improved its lead emission controls in 2012 by adding required inspections, leak detection systems, corrective actions, and recordkeeping, the area has been consistently attaining the standard. Those controls are permanent and federally enforceable. Thus EPA has reasonably determined that, in accordance with the statute, the area is attaining and that the attainment is due to permanent and enforceable measures.

Comment: The commenter also asked, "what happens if the area's lead levels increase another 0.03?"

Response: An increase from the 2014-2016 design value of 0.12 $\mu\text{g}/\text{m}^3$ to 0.15 $\mu\text{g}/\text{m}^3$ would mean that the area would still be in attainment of the 2008 lead NAAQS and public health would remain protected. More importantly, Ohio's maintenance plan for the Delta area has contingency measures that help prevent NAAQS violations and that address violations if they occur. As part

of its contingency measures, the state has committed that a "warning" level response is triggered if the lead concentration reaches $0.135 \mu\text{g}/\text{m}^3$ on a three-month rolling average. If a warning level response is triggered, Ohio will conduct a study to determine whether the lead values indicate a trend toward exceeding the standard and what control measures would be necessary to reverse the trend within 12 months of the conclusion of the calendar year. An "action" level response is triggered if the lead concentration reaches a level at or above $0.143 \mu\text{g}/\text{m}^3$ on a three-month rolling average. The action level response will require Ohio to work with the entity found to be responsible for the ambient concentration to evaluate and implement the needed control measures to bring the area into attainment within 18 months of the conclusion of the calendar year that triggered the response. Should the 2008 lead NAAQS be violated during the maintenance period, Ohio will implement one or more contingency measures. The contingency measures will be considered based on the cause of the elevated lead levels. Potential measures include improvements to existing control devices, the addition of a secondary control device, and improvements to housekeeping and maintenance. EPA has determined that the contingency measures are adequate to promptly correct a violation of the ambient lead NAAQS.

III. What Action is EPA Taking?

EPA is approving the request from Ohio to change the legal designation of the Delta area from nonattainment to attainment for the 2008 lead NAAQS. EPA is approving Ohio's maintenance plan for the Delta area as a revision to the Ohio SIP because we have determined that the plan meets the requirements of section 175A of the CAA. EPA is approving the emission controls in Air Pollution Permits-to-Install and Operate P0108083, P0121822, P0120836, and P0121942 all issued to Bunting as meeting the RACM/RACT requirements of CAA section 172(c)(1).

Specifically, EPA is approving the necessary elements from the permits, emission limits and Preventive Maintenance Plan conditions, into the Ohio SIP rather than the entirety of the permits. The emission limits are for units controlled with Baghouse A: 0.150 pounds per hour combined limit, Baghouse B: 0.150 pounds per hour combined limit, and Baghouse C: 0.075 pounds per hour combined limit. The approved specific required elements of the Preventive Maintenance Plan are detailed on pages 24 to 26 of Ohio's "Redesignation Request and Maintenance Plan for the Partial Fulton County, OH Annual Lead Nonattainment Area," submitted in April 2017. In summary, the required elements are five elements of inspections, three elements of fabric filter leak detection systems, three elements of corrective actions, and five elements of records.

EPA is approving the 2013 emissions inventory as meeting the comprehensive emissions inventory requirements of section 172(c)(3) of the CAA. EPA is taking these actions in accordance with the CAA and EPA's implementation regulations regarding the 2008 lead NAAQS.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, this rule relieves the state of planning requirements

for this lead nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d) (1) and (3) for these actions to become effective on the date of publication of these actions.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian

reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

V. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a

petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: February 27, 2018.

Cathy Stepp,
Regional Administrator, Region 5.

40 CFR parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In §52.1870, the table in paragraph (e) is amended by adding the entry “Lead (2008)” after the entry “Lead (2008)” (with the State date of 6/29/2016) to read as follows:

§52.1870 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
* * * * *				
Summary of Criteria Pollutant Maintenance Plan				
* * * * *				
Lead (2008)	Delta (partial Fulton County)	4/27/2017	[insert date of publication in the Federal Register], [insert Federal Register citation]	Includes approval of the 2013 lead base year emissions inventory and Preventative Maintenance Plan as RACM/RACT for the Bunting Bearing LLC Delta facility.
* * * * *				

3. Section 52.1893 is amended by adding paragraphs (f), (g), and (h) to read as follows:

§52.1893 Control strategy: Lead (Pb).

* * * * *

(f) Ohio's 2013 lead emissions inventory for the Delta area, submitted on April 27, 2017, to meet the emission inventory requirements of section 172(c)(3) of the Clean Air Act for the Delta area.

(g) Approval—The 2008 lead maintenance plan for the Delta, Ohio nonattainment area, submitted on April 27, 2017.

(h) Existing controls and maintenance provisions in the Air Pollution Permits-to-Install and Operate P0108083, P0121822, P0120836, and P0121942 for the Bunting Bearing LLC Delta facility including the preventative maintenance plan as fulfilling the RACM/RACT 172(c)(1) requirement. Permits P0120836, P0121822, and P0121942, all issued February 28, 2017, require a combined limit of 0.150 pounds lead per hour for units P006 to P011, P013, P020 to P025, P029 to P032, P035, and P036. Permit P0108083, issued October 29, 2012, requires a combined limit of 0.150 pounds lead per hour for units P014 to P019 and P028 and a combined limit of 0.075 pounds lead per hour for unit P005.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

4. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

5. Section 81.336 is amended by revising the entry "Delta, OH:" in the table entitled "Ohio-2008 Lead NAAQS" to read as follows:

§81.336 Ohio.

* * * * *

Ohio-2008 Lead NAAQS

Designated Area	Designation for the 2008 NAAQS ^a	
	Date ¹	Type
* * * * *		
Delta, OH: Fulton County (part) The portions of Fulton County that are bounded by: sections 12 and 13 of York Township and sections 7 and 18 of Swan Creek Township.	[insert date of publication in the Federal Register]	Attainment
* * * * *		

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ December 31, 2011 unless otherwise noted.

[FR Doc. 2018-05057 Filed: 3/12/2018 8:45 am; Publication Date: 3/13/2018]